

TITLE 11. DEPARTMENT OF JUSTICE

NOTICE OF PROPOSED AMENDMENTS TO DEPARTMENT OF JUSTICE REGULATIONS PERTAINING TO CHILD ABUSE REPORTS RECORDKEEPING

NOTICE IS HEREBY GIVEN that the Department of Justice (DOJ), pursuant to the authority vested in Penal Code (PC) section 11170(a) in order to administer the requirements in PC sections 11169(a) and 11169(b) is proposing to amend the Department Of Justice regulations pertaining to Child Abuse Reports Recordkeeping in Article 1, Chapter 9 of Division 1, Title 11 of the California Code of Regulations.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Existing law (Penal Code Section 11170(a)) requires the DOJ to maintain an index of all reports of child abuse submitted pursuant to Penal Code Section 11169 and to continually update the index. The DOJ currently maintains the Automated Child Abuse System (ACAS) as the index required to carry out provisions of the statute. Existing law also provides that DOJ may adopt rules governing recordkeeping and reporting. In 1988 the DOJ adopted Regulations Pertaining to Child Abuse Reports Recordkeeping, which were added to the California Code of Regulations, as Sections 900 through 911, Article 1, Chapter 9, Division 1, Title 11.

The DOJ proposes to amend sections 900 through 910 of the regulations.

Section 900 is amended to include the wording “and severe neglect.” It is also amended to describe more accurately what the ACAS audit trail is by amending “require that DOJ provide an” to “identify how DOJ tracks inquiries and responses thus creating an.”

Section 901(a) is amended to include the language “when appropriate and/or available.”

Section 901(b) is amended to “used by DOJ to track” from “is the method of tracking.”

Section 901(c) is amended to include all definitions of the ACAS (i.e. Index and Child Abuse Central Index).

Section 901(f) is amended to include the word “underlying” and change “file” to “report.”

Section 901(i) is amended to capitalize the word “Report” and delete “and became.”

Section 901(j) is deleted and included in Section 901(c).

Section 901(k) is renumbered to 901(j). The word “files” is amended to “report.”

Section 901(l) is amended to 901(k).

Section 901(m) is renumbered to (l). The term “or severe neglect” is added.

Section 901(n) is renumbered to (m).

Section 901(o) is renumbered to 901(n). The word “summary” is added.

Section 901(p) is renumbered to 901(o)

Section 901(q) is renumbered to 901(p)

Section 901(r) is deleted.

Section 901(s) is renumbered to 901(q). The sentence “Unfounded reports are not forwarded to DOJ for inclusion in the ACAS.” is added.

Section 901(t) is renumbered to 901(r). The wording “and became” is deleted.

Section 901(u) is renumbered to 901(s)

Section 901(v) is renumbered to 901(t). The term “investigation” is amended to “investigative.”

Section 902 is amended to include the term “severe neglect” and amend the word “file” to “report.”

Section 903(a) is amended to 903(b) and the words “and severe neglect” are added after the words “child abuse.”

Section 903(b) is amended to 903(a), and amended to include the term “and severe neglect.” Section 903(b) is also amended to modify the name of the reporting form from “Child Abuse Investigation Report” to “Child Abuse Summary Report.” Lower case “form” is amended to uppercase “Form.”

Sections 903(b)(1) and (2) are amended to 903(a)(1) and (2), and lower case “form” is amended to upper case “Form.”

Sections 903(b)(2)(1) through 903(b)(2)(8) are renumbered to 903(a)(2)(A) through 903(a)(2)(H).

Section 903(b)(2)(6) is amended to include “birth date or approximate age, and gender.”

Form SS 8583 is amended to reflect the change in definition of substantiated report from some “credible evidence of abuse” to “more likely than not” that abuse occurred. The title of the form has been amended to “Child Abuse Summary Report.”

Form SS 8583 instruction sheet is amended to reflect a change in definition of substantiated report from some “credible evidence of abuse” to “more likely than not” that abuse occurred. The title of the form has been amended to “Child Abuse Summary Report.” “Past abuse of a child who is an adult at the time of disclosure” has been deleted.

The title for Section 904 is amended from “DOJ Review and Verification of Reports Submitted by CPAs” to “DOJ Review and Verification of Submitted Summary Reports.”

The word “summary” is inserted between “abuse” and “report” to correctly reflect the new name of the SS 8583.

Section 905(d) is amended by deleting the last sentence from 905(d) and creating 905(e) containing the last sentence from 905(d).

Section 906 is amended to add “and severe neglect” after “child abuse.”

Section 907(b) is amended to include pre-employment background investigations for peace officers. The word “purposes” is deleted.

Section 908(a) is deleted and renumbered 908(b).

Section 908(b) is renumbered to 908(a) and several subsections thereof are created.

Section 908 is amended to include the peace officer pre-employment category to procedures for confirmation of ACAS information. Section 908 is also amended to reflect consistency in the confirmation process for non-criminal investigations and citizen inquiries.

The confirmation letter is amended to include language for pre-employment background investigations for peace officers. The associated questionnaire is also changed to include additional questions to establish compliance with current retention standards and to ensure notification to the suspect.

Section 909 is amended to include the peace officer pre-employment category to the existing categories for notification in response to inquiries from licensing, employment, and certification agencies. This section is also amended to include the language “with the exception of temporary placement of children in emergency situations.”

Section 910 is amended to reflect an audit record as opposed to a log.

PUBLIC HEARING DATES, TIME AND PLACE:

No public hearing has been scheduled for the proposed regulatory action, however any interested person or his or her duly authorized representative may request, no later than 15 days prior to the close of the written comment period, a public hearing pursuant to section 11346.8 of the Administrative Procedures Act.

WRITTEN COMMENT PERIOD:

Any interested persons, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the contact person listed below. The written comment period closes on February 6, 2006. Only written comments received by that time shall be considered.

CONTACT PERSON:

Any requests for or questions regarding the regulations package should be directed to:

Bud Wilford
California Department of Justice
Division of California Justice Information Services
Child Protection Program
P.O. Box 903387
Sacramento, CA 94203-3870

Telephone: (916) 227-3263

Or

Sheri Boatwright
California Department of Justice
Division of California Justice Information Services
Child Protection Program
P.O. Box 903387
Sacramento, CA 94203-3870

Telephone (916) 227-5050

IMPACT STATEMENTS:

Cost Impact on Local Agencies and School Districts: The proposed amendments to existing regulations will not create a local mandate, will not have a significant impact on local agencies and school districts, and will not result in reimbursable costs. Local Child Protective Agencies are already required by Penal Code Sections 11169(a) and 11169(b) to follow the procedures covered by the proposed amendments.

Non-Discretionary Costs or Savings: The proposed amendments to existing regulations will not create any non-discretionary costs and will not generate any savings.

Cost or Savings to State Agencies and Federal Funding to the State: Any state costs will be absorbed by the Child Protection Program within the California Justice Information Services Division of the DOJ.

The proposed regulations will impact the State Department of Social Services, who maintain a computerized version of the standard child abuse reporting form. No other state agencies will be impacted and there will not be any impact on any federal funding programs to the state.

Business Impact: The proposed amendments to existing regulations will have no significant, statewide economic impact directly affecting businesses in California, including the ability of California businesses to compete with businesses in other states.

Impact on Small Businesses, Private Persons, and Housing Costs: The proposed amendments to existing regulations will have no significant economic impact on small businesses and private persons because these regulations affect only those individuals listed in the California Child Abuse Index as a result of meeting reporting requirements identified in Penal Code Section 11169, and will have no impact on housing costs. The Department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Assessment of Job/Business Creation, Elimination, or Expansion: The adoption of the proposed amendments to existing regulations will not create or eliminate jobs in the State of California nor will it result in the elimination of existing businesses or create or expand businesses in the state.

CONSIDERATION OF ALTERNATIVES:

In accordance with Government Code section 11346.5, subdivision (a)(13), the Department must determine that no reasonable alternative it considered or that has otherwise been identified and brought to its attention would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

The Department invites interested persons to present statements or arguments with respect to alternatives to the proposed amendment to existing regulations during the written comment period.

AUTHORITY:

PC section 11170(a) specifies that the DOJ may adopt rules governing Child Abuse recordkeeping and reporting.

REFERENCE:

This regulatory action implements, interprets, and makes specific Penal Code section 11169(a) and 11169(b)

AVAILABILITY OF STATEMENT OF REASONS, PROPOSED REGULATIONS AND OTHER INFORMATION:

The DOJ has prepared a statement of reasons for the proposed amendments to existing regulations and a listing of the exact regulations being proposed.

Copies of the exact language of the statement of reasons and of the text of the proposed amendments to existing regulations and any other information may be obtained from the DOJ contact person shown in this notice. Copies of the exact language of the statement of reasons and of the text of the proposed amendments to existing regulations may also be obtained through the Attorney General web site at www.ag.ca.gov/childabuse/index.htm.

With the exception of any nonsubstantive technical or grammatical changes, the full text of any amended proposals will be available for 15 days prior to its adoption to all persons who submit written comments during the public comment period, and all persons who request notification.

AVAILABILITY OF CHANGED OR AMENDED TEXT

After the DOJ analyzes all timely and relevant comments received during the comment period, the DOJ will either: adopt the amendments to the existing regulations as described in this notice, or make modifications based on the comments. If the DOJ makes modifications which are sufficiently related to the original text of the proposed amendments to existing regulations, the amended text, with the changes clearly indicated, will be made available to the public for at least 15 days before DOJ adopts the revised amendments to the existing regulations. The DOJ will accept written comments on the amended regulations for 15 days after the date on which they are made available.

AVAILABILITY OF FINAL STATEMENT OF REASONS

Once the Final Statement of Reasons has been prepared, it will be made available through the contact persons listed above.